



Patrick W. Turner
General Counsel-South Carolina
Legal Department

AT&T South Carolina
1600 Williams Street
Suite 5200
Columbia, SC 29201

T: 803.401-2900
F: 803.254.1731
patrick.turner.1@att.com
www.att.com

August 6, 2009

The Honorable Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Steve Armfield v. BellSouth Telecommunications, Inc. d/b/a AT&T South
Carolina
Docket No. 2009-255-C

Dear Mr. Terreni:

Enclosed for filing is AT&T South Carolina's Motion to Dismiss or, in the Alternative,
Answer to Complaint in the above-referenced matter.

By copy of this letter, I am serving all parties of record with a copy of this document as
indicated on the attached Certificate of Service.

Sincerely,

A handwritten signature in black ink that reads "Patrick Turner". The signature is written in a cursive, flowing style.

Patrick W. Turner

Enclosure
cc: All Parties of Record
DM5 #737935

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

IN RE:	Steve Armfield,)	
)	
	Complainant/Petitioner,)	Docket No. 2009-255-C
)	
	v.)	
)	
	BellSouth Telecommunications, Inc.)	AT&T SOUTH CAROLINA'S
	d/b/a AT&T South Carolina,)	MOTION TO DISMISS OR,
)	IN THE ALTERNATIVE,
	Defendant/Respondent.)	ANSWER TO COMPLAINT
)	

In compliance with the Notice that was served on the registered agent for BellSouth Telecommunications Inc. d/b/a AT&T South Carolina ("AT&T South Carolina") on July 7, 2009, AT&T South Carolina respectfully submits this Motion to Dismiss or, in the Alternative, Answer to the letter complaint ("Complaint") in this docket dated June 16, 2009.

I. MOTION TO DISMISS

1. The Complaint clearly was filed on behalf of a business entity. The letterhead upon with the Complaint is submitted refers to "Sun Printing Co.," and the proposal addressed by the Complaint is directed to Sun Printing Company of Newberry, Inc. The Complaint also refers to Planning Our Day, "which is subsidiary wedding stationary (sic) business,"¹ and it states "I do not think it is fair for AT&T to expect my companies to shoulder the burden of [AT&T's alleged] mistake."²

¹ See Letter of March 30, 2009 at p. 1 (emphasis added).

² *Id.* at p.2 (emphasis added).

2. The Commission's Rules provide that with certain limited exceptions that do not apply to opposed cases like this one, "any entity including, but not limited to, a corporation, partnership, limited liability company, or professional association, must be represented by an attorney admitted to practice law in South Carolina"³ The Complainant clearly is an entity, and the Complainant clearly is not represented by an attorney. AT&T South Carolina, therefore, respectfully requests that the Commission dismiss this Complaint.

II. IN THE ALTERNATIVE, BACKGROUND AND ANSWER

3. The Complaint essentially alleges that AT&T South Carolina somehow did not honor the proposal that is attached to the Complaint. AT&T South Carolina denies these allegations. On its face, that proposal addresses an offering by AT&T South Carolina to provide Sun Printing Company three local lines and unlimited long distance at a single price. That is what AT&T South Carolina has done. AT&T South Carolina admits that certain of its representatives have discussed the dispute addressed in the Complaint with representatives of the Complainant and that AT&T South Carolina has made good-faith offers to amicably resolve this dispute (without admitting liability, as there is none in this case). The Complainant, however, has rejected these offers. AT&T South Carolina denies all of the allegations in the Complaint to the extent that they are inconsistent with the admissions set forth in this paragraph.

III. AFFIRMATIVE DEFENSE – LACK OF SUBJECT MATTER JURISDICTION


4. On its face, the proposal attached to the Complaint offers three local lines and unlimited long distance at a single price that is different than if the services were purchased separately from AT&T South Carolina's tariffs. The offering described in the proposal,

³ Rule 103-805.B (emphasis added). Even when the exceptions applicable to unopposed cases apply initially, the Commission's Rules plainly state that if the case becomes unopposed, "the represented entity must obtain legal representation by an attorney authorized to practice law in South Carolina in order for the commission to allow the matter to proceed." *Id.*, 103-805.E.

therefore, clearly is an unregulated “bundled offering” and/or an unregulated “contract offering,”⁴ and the Commission’s jurisdiction is limited to enforcing the terms and conditions of that offering.⁵ To the extent that the Complaint seeks any different and/or additional relief, the Commission lacks jurisdiction to provide such relief.

5. The Complaint also refers to “yellow page advertising rates.”⁶ However, “[p]ublic utilities, as part of [their] duties, are not required to provide yellow pages advertising,” and the Commission has no jurisdiction over yellow pages advertising.⁷ Accordingly, the Commission has no jurisdiction over any aspect of the Complaint that addresses yellow pages advertising.

Respectfully submitted this 6th August, 2009



Patrick W. Turner
1600 Williams Street, Suite 5200
Columbia, South Carolina 29201
803-401-2900

ATTORNEY FOR AT&T SOUTH CAROLINA

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⁴ See S.C. Code Ann. §58-9-285(A)(1), (2).

⁵ *Id.*, §58-9-285(B)

⁶ See Letter of March 30, 2009 at p. 1

⁷ See *Pride v. Southern Bell Tel. and Tel. Co.*, 138 S.E.2d 155, 157 (SC 1964). An affiliated entity, not AT&T South Carolina, publishes the yellow pages directory that is the subject of Upstate Rental’s Complaint. In this instance, however, Upstate Rental’s failure to name this affiliated entity as a party to this Docket is moot because the Commission has no jurisdiction over its claims involving the yellow pages.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) CERTIFICATE OF SERVICE

The undersigned, Jeanette B. Mattison, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina and that she has caused an Answer in Docket No. 2009-255-C to be served upon the following on August 6, 2009:

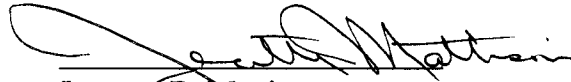
Shannon Bowyer Hudson, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201
(Office of Regulatory Staff)
(Electronic Mail)

Jocelyn G. Boyd, Esquire
Deputy Clerk
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(Electronic Mail)

F. David Butler, Esquire
Senior Counsel
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(Electronic Mail)

Joseph Melchers, Esquire
Chief Counsel
S.C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(Electronic Mail)

Steve Armfield
1101 Boyce Street
Post Office Drawer 438
Newberry, South Carolina 29108
(Certified Mail)


Jeanette B. Mattison

DM5 #737934